

said they could not be admitted under the immigration laws of the United States.

Captain Kichne of the Frye finished a formal deposition telling of the destruction of his vessel before Collector Hamilton and it was forwarded to the treasury department at Washington. Captain Kichne was instructed to report to the treasury officials at Washington tomorrow morning. Collector Hamilton took aboard the Hotel Friedrich an order to permit the landing of 150 metric tons of mail from the French mail steamer. All the mail is destined for South American ports.

The German commander seems to feel he was acting within his rights when he jettisoned the chest cargo of the Frye and then sent the big sailor to its bottom. Captain Kichne of the Frye, however, says the chest was consigned to Queenstown, that he does not know to whom it belonged and that it was not contraband of war.

In addition to the list of eight prizes, all sunk in the Atlantic by the Prinz Eitel, which commander Thierichsen gave last night to Customs Collector Hamilton it was said here today that three more vessels had been sunk in the Pacific by the German raider and their crews landed at other ports.

Heading the list of the other three is the steamer Charcas of British registry which is said to have been sunk in the south Pacific in December.

The British bark Kildonan from Liverpool to Callao also said to have been sunk and her crew landed on Easter Island. The French bark Jean, with 2,000 tons of coal is said to have been taken to Easter Island and after her cargo had been transferred to the Prinz Eitel, was sunk by a bomb.

Commander Thierichsen was presented with a formal communication in the form of a letter by Collector Hamilton.

"I have the honor to advise that under instructions received from the secretary of the treasury, formulated with the advice of the state department, your stay in United States waters will be governed as follows:

"You will be expected to leave United States jurisdiction within twenty-four hours in accordance with article 12, convention 13, The Hague, 1907, unless a further period of time is proved to be necessary to put on board food or to make repairs.

"Article 11 of convention 13 reads: 'In the absence of special provision to the contrary in the legislation of a neutral power, belligerent warships are not permitted to remain in the ports of roadsteads or territorial waters of the said power for more than twenty-four hours except in cases covered by the present convention.' This is in accordance with the proclamation of neutrality issued upon the outbreak of the war.

"If you so desire, you may have fuel and lubricants sufficient, with those already on board, to take your ship to the nearest German port.

"You may have provisions in the quantity not more than necessary to bring your supplies to the usual peace standard for the complement of the ship.

"If necessary you may have repairs made, but only to the extent that is necessary to make the vessel seaworthy, the amount of repairs and the time necessary for their execution to be determined by designated authorities of the United States.

"You may land the captured passengers, officers and men after they have been passed by the United States immigration authorities as being eligible aliens.

"You may land and forward your mail after arrangements have been completed with the United States postoffice authorities for the proper forwarding of the same.

"You will land any Americans among the officers, seamen or passengers from captured vessels. You are requested not to use your radio equipment in port for purposes of transmission.

"In conclusion, I have the honor to request that you furnish me today a signed statement of the circumstances of the destruction of the ship William P. Frye, or of another American ship that has been destroyed by the vessel in your command."

The German officer sent his answer after the neutrality demands of the United States had been presented by Collector Hamilton.

The German officer's communication, declared that it was his intention to dock immediately and undergo inspection. He would then request the government to grant him only such time as it would be necessary to complete the work.

Collector Hamilton said he had received a sworn statement from the commander of the German cruiser concerning the sinking of the American ship Frye and that he was communicating to Washington.

Captain Wentz, naval attaché of the German embassy, arrived this afternoon and went aboard the Eitel.

**WOULD PERMIT EITEL TO OBTAIN REPAIRS**  
Washington, March 11.—The neutrality board has made report it is understood recommends that the Prinz Eitel Friedrich be permitted to make such repairs as would make her "seaworthy" under supervision of American naval authorities if the commander of the German ship requests it.

**BRITISH VICTIM OF EITEL OWNED IN AMERICA**  
Washington, March 11.—The British steamer Charcas, said to have one of the Prinz Eitel's prizes, sunk in the south Pacific in December was owned by the New York and Pacific Steamship company a British corporation, which already has placed four of its ships under American registry and was on her way to New York to file American registry at the time of her destruction.

## CLAUDE ALBRIGHT SCORES HEAVILY IN CONCERT IN CAPITAL

(State Capital Bureau of Evening Herald.)  
(51 De Vargas Hotel.)

Santa Fe, N. M., March 11.—Miss Claude Albright, assisted by Prof. Tello, violin; Mr. Stanley Seder, piano, and Mr. Adelaide S. Bell, accompanist, gave a concert in the Kays theater here last night which delighted a large audience of music-lovers and admirers of Miss Albright. The singer's program was a pleasing departure from the customary program of the opera star in concert. It carried in the Meyerbeer and Schubert selections enough of highbrow music to make it classical but it was in the lighter numbers that Miss Albright seemed most to please her audience. She was required to sing La Paloma and her singing of Carle Jacinto Bond's "A Perfect Day" was only a little more exquisite than her singing of MacDowell's "Thy Beaming Eyes."

Prof. Tello's numbers were especially fine and Mr. Seder was heartily applauded. An effort is to be made by the large number of Albuquerque people present to induce Miss Albright and her associates to repeat the concert in Albuquerque in the near future.

The charity committee of the Civic Betterment league will meet this afternoon, and this evening the board of directors of the league will meet.

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We clean hats, men's and women's clothing, rugs, curtains, draperies, etc. 226 West Gold. Phone 448.

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**CLEAN COAL**  
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Keep Your Dollars at Home  
...BUY...  
**SUNSHINE BUTTER**  
Made in Albuquerque

## Record Will Not Show Whether Thaw Is Sane

**Justice Rules Out Testimony as to Mental Capacity Except Enough to Show He Could Be Guilty, Under Law.**

New York, March 11.—Harry K. Thaw's attempt to get evidence concerning his sanity into the record of his trial for conspiracy to escape from Matteawan failed today.

Justice Page ruled out all testimony of this character except just enough to show that Thaw had the mental capacity to enter into a conspiracy with his five co-defendants to escape. In his ruling Justice Page asserted that the injection of testimony designed to prove the sanity of Thaw was improper in this case, which was purely to try an indictment charging the existence of an illegal conspiracy to effect the escape of Thaw.

The state brought its case to a close this afternoon and the defendants immediately made the usual motions to dismiss the indictment on the ground that there had been no proof of the conspiracy. The motions were all denied.

Later a motion was made by the defense in behalf of Michael O'Keefe, on the ground that no evidence had been adduced to connect him with the alleged crime. Justice Page granted the motion and discharged O'Keefe.

Bernard Kealey, a deputy sheriff of Calverbrook, N. Y., testified to meet Thaw and Roger Thompson on a train which passed through Rochester, N. Y., and described how he and Constable Drew chased Thaw into Canada, where arrest followed.

Kealey, who had charge of Thaw, was asked whether he thought Thaw was rational. The prosecution objected and was sustained. The jury was excused while the attorneys argued upon the admission of his testimony regarding Thaw's sanity.

Justice Page asserted that the release should have been effected according to law. Stanchfield said he admitted the escape was unlawful but not a criminal act.

Justice Page admitted to Stanchfield that he could place Thaw on the witness stand and ask him whether he escaped from Matteawan in pursuance of the belief that to remain might detract his reason. Justice Page shook his head negatively, however, when Stanchfield asked if he could not ask witnesses questions to show that Thaw's belief was not a figment of his own brain.

## CONCLUSIONS WILL

(Continued from Page One.)

that requires any action on the part of this legislature, except legislation to provide new quarters for female convicts, and this legislation we heartily recommend. The most of the witnesses who testified before the committee were persons who were employed as guards and in other positions at the penitentiary and who had been discharged. Some of these witnesses were biased to such an extent that no credit can be properly given to their testimony. Two witnesses were women convicts serving time for murder. The management of the institution, however, viz., Dr. J. A. Macle, physician of the institution; R. L. Orinches, secretary; and J. B. McManus, superintendent.

So far as we could understand from the evidence it was sought to establish the following complaints:

1. Criminal intimacy between one Juan Trujillo, a convict porter, and two female convicts.

2. Furnishing improper food to the convicts and guards.

3. Cruelty to the prisoners.

From the evidence it appears that the predecessor of Mr. McManus as superintendent, used Alma Lyons and Valentina Madrid, two women convicts, for service in the dining room of the second floor of the building, that while after the present superintendent took charge of the institution he also used these two women in that service. These women occupied one cell or room together on the third floor of the building, and the story above the dining room referred to. That the prisoner Juan Trujillo was used by the present superintendent as a porter and errand boy, and that he was frequently directed to take from the first floor to the dining room floor above articles for the dining room table, that in going to and from the dining room he would see these women, either in the dining room or on that floor. It appears from the evidence of the guard that this porter would usually return from the dining room to the floor below at one o'clock, and that even ten minutes would have been noticed. From the testimony of Alma Lyons it seems that she and this man managed to get together on about four occasions, long enough to become criminally intimate. The other woman, Valentina Madrid, also admitted on one occasion there was criminal intimacy between her and this man Trujillo. No other prisoners are shown by the testimony to have had access to either of these women.

The penitentiary board, which is by section 3, article 14, of the constitution of this state given full control and management of the penitentiary in January, 1914, went into a full and thorough examination of this matter, and satisfied itself that no culpability attached to the superintendent. We have no doubt that had the superintendent been shown to have been culpably negligent, some steps would have been taken by the board looking to his removal, as provided by law. No such recommendations have been made, and in our judgment the facts in the case require no such recommendation.

As to the complaint that the food furnished the convicts and guards was improper or unwholesome, it appears from the evidence that it is all reliable that on one occasion the head and leg, or perhaps ham of a

hog were tainted. A discharged steward says he was directed by the secretary of the institution to cook it, but the secretary on the witness stand denies this and says that he told the steward to burn it. The steward admits that he did burn the hog, but says, in substance, that he did so on his own accord. As to other testimony by discharged guards relating to tainted meat, that they and the convicts ate, we attach no importance to such testimony. The evidence shows that not one of these guards quit their employment on account of the food furnished, nor does it appear that any of them made any complaint to the superintendent, or to the penitentiary board. Benigno Romero, one of the employees of the institution and who was introduced as a witness by the committee, and who appears to be a very intelligent man, as well as truthful, says in substance that the food has always been good as far as he has observed.

As to the charge of cruel treatment of prisoners, the evidence shows that one convict was given corporal punishment since the present superintendent took charge of the institution. This convict, besides his continued insolence, which he showed to the officers of the institution, had repeatedly broken the rules of the institution; that he sent out letters to different persons criticizing the management of the institution; that he was frequently admonished not to break the rules, but continued his conduct until it became necessary to take some drastic steps for the protection and the proper discipline of the institution. Evidence shows that out of more than 200 convicts on the average, since the present management, this is the only convict that has been disciplined and punished in this way. Evidence also shows that one prisoner who had the St. Vitus dance died in the institution.

As to the complaint that convicts were allowed to escape, the evidence shows that on one occasion under the present management, while the gates to the penitentiary yard on the south side were opened for the passage of wagons, and while a train was standing in the yard, having been run into the construction of the hospital building, the guard from Tower No. 4 was called for duty at the point where the gates were opened. Several convicts, taking advantage of the absence of the guard at Tower No. 4, and the presence of the train referred to, seized a ladder that was in use in the construction of the hospital building, and following behind other convicts, rushed for the east wall between Towers No. 3 and 4, and succeeded in getting over the wall. Five of them were immediately captured, through the vigilance of the superintendent, one subsequently surrendered, and the other one succeeded in making his escape to Mexico. It appears from the testimony that it had not been the custom for a long time to keep a guard at Tower No. 3, Guards at Towers Nos. 3 and 4 were considered sufficient. The evidence also shows that the guard at No. 2 failed in discharging his duty in not exercising more vigilance and diligence to prevent this escape. The testimony shows that this guard was immediately discharged for neglect of duty.

Evidence was also submitted to the committee by the penitentiary management showing comparative financial and other conditions of the institution under different managements. Under this showing it seems that covering a period of five years before the present superintendent took charge there had been deficits amounting to \$2,500 which had to be covered by deficiency appropriations. Since the present superintendent took charge he found unpaid bills amounting to \$19,790.25, with but \$19,928.50 left in the general maintenance appropriation fund. After these bills were paid there was left only the proceeds of convict earnings to run the institution for the year 1913. This left an apparent deficit of \$16,000 which had to be taken care of by the legislature of that year. The evidence shows that during the past two years the present superintendent has been able to run the institution within the convict earnings and appropriations, leaving no deficit. In fact, for the fiscal year 1913 there was surplus of \$1,226.99 and for the fiscal year of 1912 there was a surplus of \$513.34, and this surplus is shown notwithstanding the fact that permanent improvements have been made for the years 1912, 1913 and 1914, aggregating \$6,262.74. These improvements made consist of the following: A new dining room, kitchen and bakery; addition to hospital building used for modern shower baths, drug room, operating and sterilizing rooms; stable rebuilt, having been destroyed by fire under a previous administration; main building painted throughout; main floor refloored, and also a part of the second floor refloored; a fire-proof vault built in the clerk's office; metal ceilings put in on first floor; dining room and kitchen built for employees; guard house equipped with steam heat and painted throughout; showers built and equipped; interior of both main houses painted; extensive repairs made to plant buildings.

The break made by seven convicts to escape was one of those things that commendable interest in the institutions. The management is to be congratulated rather than condemned that only one of the convicts succeeded in making his escape. This report, however, of five of these convicts immediately after they got over the walls of the institution shows vigilance and activity on the part of the superintendent, who himself participated in their capture. It is our judgment that if guard at Tower No. 2 had properly discharged his duty in not allowing the gates to be opened, it was more than likely that some of these convicts would have succeeded in getting over the penitentiary wall. He was close enough to them to have stopped them by the exercise of the proper judgment and effort to prevent escape. The guard for this conduct, as we have before said, was immediately discharged for incompetency and neglect.

**Improvements.**  
The management has shown a commendable interest in the institution in the construction of the needed buildings in connection therewith, the character of which appears in this report, in commenting upon the testimony adduced.

**Sanitation.**  
The health of the prisoners it seems is exceedingly good, due no doubt in a large measure to the improved sanitary conditions of the institution, and especially due to the bathing facilities that have been furnished so amply for the use of the convicts.

**Cost Per Capita.**  
It appears from the testimony that the cost per day for maintenance of convicts under the present management

was as follows:  
In the year 1912, 49.9 cents per capita; in the year 1913, 49.4 cents per capita; in the year 1914, 50.1 cents per capita.  
At no time since the year 1904 has the cost of maintaining prisoners been so low. In fact, as has already been said, there never has been a time except in the year 1904 and 1905 when the cost of maintaining prisoners was so economical, and yet, from the evidence in this case they are well proved and as a rule no complaint has been made. In fact it does not appear from the testimony directly that a single convict has made any complaint as to the food he is receiving, either to the superintendent or to the penitentiary board. And in reckoning the per capita cost of keeping the prisoners under the present management for the years 1912, 1913 and 1914 is included the actual amount paid out in those years for improvements.

**Economy.**  
In the matter of buying supplies for the penitentiary both the penitentiary board and the superintendent, it seems, have in requesting and accepting bids bid in view the interest of the state rather than the interest of those who supplied the goods advertised for. Take one instance as an illustration. It developed before the committee that blue and gray cloth used for convict clothing, for which the state under former administration paid an average of \$12.22 per yard under the present administration the same goods of a better quality cost 75 cents a yard. Here is a saving of 44 cents a yard on this item alone, to say nothing of other savings under the present management. And this economy, so far as we can determine from the evidence, has characterized the administration of penitentiary affairs ever since the present penitentiary board and superintendent have assumed charge.

We find nothing in the evidence that would justify us in censuring the management of the institution, but on the other hand we heartily approve of such management, and believe it to be careful, prudent, humane, economical and businesslike. We therefore submit the following resolution for the approval of the house:

Resolved, That the investigation of the penitentiary management by the committee on penitentiary affairs on facts upon which such management should be censured, or any action against the superintendent of the penitentiary should be taken by this house.

Resolved, That we find the administration of the institution by the penitentiary board and the superintendent to be humane, just, prudent, economical and in the interest of the people of this state, and that such management is entitled to and is hereby given the approval of this house.

Respectfully submitted,  
(Signed)  
R. J. SMITH,  
G. T. VICAL.

**GOVERNOR RESENTS**  
(Continued from Page One.)

things "to place the control and management of the executive mansion and grounds, with certain limitations, under the commissioner of public lands." These limitations amount to very little in the light of the general provisions of the bill. The governor simply is permitted to live in the house which is under the control of another state officer. He is really a tenant at will of the land commissioner.

I believe that no state in our union has such a law as this bill would provide. My investigations cover only half the states and I have found none. In four-fifths of those examined the governor is directly or indirectly the controlling factor in capital supervision and in no state have residence provided by the state under the control and espionage of another state officer.

It has been said that the federal



**MISS ELIZABETH GARRETT**  
THE SWEET SINGER AND COMPOSER OF THE SOUTHWEST,  
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Admission:

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A feature of the recital will be the new State Song recently presented before the House of Representatives and so heartily endorsed by them.

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It has been said that the federal

buildings in various places are in charge of one man. That is true, but that man is an appointee and liable to removal at any time. The land commissioner was elected by the people with a knowledge of his duties, he and his officers are permanent. If he controls the governor's residence does it require any unusual foresight to anticipate the position of advantage that he may think he may hold on these boards?

The law by which the capital custodian committee was created was passed in 1891 and this method of control and management of the capital has been in force ever since and the same control and management has been exercised over the governor's mansion since it was built. The operation of the law seems to have been satisfactory for a long time, and since it applies so intimately to the home life of the executive it seems to me that it should not be made a foothold to satisfy any feeling of any sort that may possibly at some time have actuated anyone who may be responsible.

The land commissioner's duties and responsibilities are perhaps as great if not greater than any other state officer. In the administration of 12,000,000 acres of state lands he already holds power and responsibility probably superior to that of any other. In addition to all this the land commissioner is now secretary. By virtue of his office as the capital custodian committee and as such is in a position to exercise some influence and authority in relation to the management of both the capital and governor's mansion.

During the time that I have been governor, being for the past three years, everything except one incident, so far as I have been able to learn, has gone on smoothly and satisfactorily to the officials generally employed in the capital under the board for which I am largely responsible and which to a great extent is responsive to me and to a considerable extent influenced by me. No advantage has been taken of anyone, no discrimination or favoritism has been shown against or for anyone, all have been treated fairly and justly. Whenever a difference has occurred it has been my policy to see to it that no Democrat should be given any advantage over a Republican. In fact, the rule has been that the Democrat should give way to the Republican in order to avoid anything that might in any way be considered political.

The individuality of the man who happens to be governor may not signify very much but the chief officer of a sovereign state is entitled to some consideration as such. I feel very keenly the humiliation that might be felt by any man under similar circumstances if this bill should become law.

I do not think that you believe that I am a man who is likely to plead mercy for personal consideration or the dignity of my position, but I do ask that you have due regard for the chief executive of your state and direct yourselves of all personal and political prejudices in considering the disposition of this bill which means, in my opinion, much to the state of New Mexico. I am, gentlemen, respectfully yours,

WILLIAM C. McDONALD,  
Governor

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Once, Danderine dissolves every particle of dandruff, cleanses, purifies and invigorates the scalp, forever stopping itching and falling hair. But what will please you most will be after a few weeks' use when you will actually see new hair—fine and downy at first—yet really new hair, growing all over the scalp. If you care for pretty, soft hair and lots of it, surely get a 25-cent bottle of Danderine from any drug store or toilet counter, and just try it.

## HOW "TIZ" HELPS SORE, TIRED FEET

Good-bye sore feet, burning feet, swollen feet, warty feet, smelly feet, tired feet.

Good-bye corns, calluses, bunions and raw spots. No more shoe tightness, no more limping with pain or drawing up your face in agony. "TIZ" is magical, acts right off. "TIZ" draws out all the poisonous exudations which build up the foot. Use "TIZ" and forget your foot misery. Ah! how comfortable your feet feel. Get a 25-cent box of "TIZ" now at any drug store or department store. Don't suffer. Have good feet, glad feet, feet that never swell, never hurt, never get tired. A year's foot comfort guaranteed or money refunded.



The health of the prisoners it seems is exceedingly good, due no doubt in a large measure to the improved sanitary conditions of the institution, and especially due to the bathing facilities that have been furnished so amply for the use of the convicts.

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